

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DEON A. STEWART,

Plaintiff,

vs.

DEPARTMENT OF CORRECTIONAL SERVICE STAFF, SHERWOOD, Case Mannerger; NEUJAHR, Case Mannerger; SERA NELSON, Warden; CATHY SEARS, Warden; TARGET BOYD, Warden; and M. DICINI, Corporal;

Defendants.

4:22CV3104

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Notice of Appeal, [Filing No. 25](#), what the Court has docketed as a Supplement to the Notice of Appeal, [Filing No. 31](#), and a memorandum from the Clerk of the Court requesting a ruling as to Plaintiff's authorization to proceed in forma pauperis on appeal, [Filing No. 27](#).

On November 14, 2023, the Court granted Plaintiff an extension of time to December 13, 2023, to file a signed notice of appeal, and sent him a copy of the Supplement to his Notice of Appeal, directing him to sign on the line provided on the Notice of Appeal Form. [Filing No. 33](#). Instead of signing the Supplement to his Notice of Appeal, Plaintiff signed the example signature block on page 2 of the Court's November 14, 2023 order, see [Filing No. 33 at 2](#), and returned it on November 27, 2023, with correspondence indicating that Plaintiff intended it as his "signature on the form to process the appeal." [Filing No. 31-1](#). The Court has docketed Plaintiff's correspondence and signature page as a supplement to the Supplement to his Notice of

Appeal and concludes, when liberally construed, that Plaintiff's submission satisfies the signature deficiency in his Notice of Appeal, and his appeal may now be processed.

With respect to Plaintiff's authorization to proceed in forma pauperis, Plaintiff was permitted to proceed in forma pauperis in this action on June 14, 2022, and he may now proceed in forma pauperis on appeal without further authorization. [Fed. R. App. P. 24\(a\)\(3\)](#).

The Prison Litigation Reform Act ("PLRA") requires prisoner plaintiffs to pay the full amount of the Court's \$505.00 appellate filing fee by making monthly payments to the Court, even if the prisoner is proceeding in forma pauperis. [28 U.S.C. § 1915\(b\)](#). The PLRA "makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal." [Jackson v. N.P. Dodge Realty Co.](#), 173 F. Supp. 2d 951, 952 (D. Neb. 2001) (citing [In re Tyler](#), 110 F.3d 528, 529–30 (8th Cir. 1997)). The appellate filing fee is assessed when the district court receives the prisoner's notice of appeal. [Henderson v. Norris](#), 129 F.3d 481, 485 (8th Cir. 1997).

Here, Plaintiff paid the full amount of the Court's \$505.00 appellate filing fee on November 20, 2023. See Docket Sheet. Thus, Plaintiff has completely satisfied his obligation to pay the full \$505.00 appellate filing fee and no additional appellate filing fee payments are required.

IT IS THEREFORE ORDERED that:

1. Plaintiff may proceed on appeal in forma pauperis.
2. Because Plaintiff paid the full \$505.00 appellate filing fee on November 20, 2023, the Clerk of the Court is directed to update the Court's records to reflect that Plaintiff is not liable for any additional appellate filing fee payments in this case.

Dated this 27th day of November, 2023.

BY THE COURT:



Joseph F. Bataillon
Senior United States District Judge